



## INTERIOR BOARD OF INDIAN APPEALS

Estate of Phillip Bill, Jr.

32 IBIA 182 (05/18/1998)



## United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS  
INTERIOR BOARD OF INDIAN APPEALS  
4015 WILSON BOULEVARD  
ARLINGTON, VA 22203

ESTATE OF PHILLIP BILL, JR.

: Order Affirming Decision

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: Docket No. IBIA 97-149

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: May 18, 1998

Appellants Phyllis J. Bill and Donna B. Chen seek review of a May 27, 1997, order issued by Administrative Law Judge William E. Hammett denying rehearing in the estate of Decedent Phillip Bill, Jr. The denial of rehearing let stand an April 9, 1997, Order Determining Decedent's Heirs. For the reasons discussed below, the Board of Indian Appeals (Board) affirms that decision.

Appellants did not file a brief. Therefore, all of their arguments are set forth in the Statement of Reasons attached to their Notice of Appeal. Appellants, who are Decedent's paternal half-sisters and were found to be Decedent's heirs, challenge Judge Hammett's finding that Clara Hines (Hines), Decedent's maternal half-sister, was also Decedent's heir.

Appellants raise several arguments which challenge decisions made in the estates of Ivan Bill (Ivan), Dorcas Minthorn Courville (Dorcas), Phillip Bill, Sr., and perhaps Kenneth Bill. These estates are not at issue here. Therefore, the Board does not address any of these matters.

Appellants also contend that they were improperly denied information about Dorcas under the Privacy Act. This matter is also not at issue in this appeal, and is not addressed.

Appellants allege that Phillip Bill, Sr., was never married to Dorcas and never adopted Hines, who was the daughter of Dorcas and Alphonse Courville. The information before the Board substantiates that Hines is the daughter of Dorcas and Alphonse Courville. It also shows that Decedent was the son of Dorcas and Phillip Bill, Sr. This makes Decedent and Hines half-brother and -sister on their mother's side, as Judge Hammett held. The questions of whether Phillip Bill, Sr., was married to Dorcas and whether he adopted Hines are not relevant to Hines' relationship to Phillip Bill, Jr.

Appellants argue that they were unable to submit anything in Decedent's estate because at the same time as they should have been preparing for that hearing, they were also preparing for a hearing in the estate of their brother, Ivan. The materials before the Board show that hearings were held in Ivan's estate on August 8, 1995, and May 8, 1996; and that a hearing was held in Decedent's estate on May 8, 1996. Appellants do not contend that they asked Judge Hammett for a continuance of Decedent's hearing, or otherwise informed him that they were unable properly to prepare for Decedent's hearing. In the absence of even an allegation that Appellants raised an issue of the

hearing date with the Judge, the Board declines to hold that any error was committed in the timing of the hearing.

Appellants contend that Hines misappropriated Decedent's funds. Even if this were true, Judge Hammett found that nothing in the Oregon intestate succession statutes prohibit inheritance under such circumstances. Appellants do not challenge this determination. The allegation of misappropriation of funds should have been dealt with through the proper legal channels, not raised as a part of this probate proceeding.

Appellants next contend that Kenneth Bill is a maternal half-brother, not a predeceased brother. No person named Kenneth Bill was found to be an heir in Decedent's estate.

Appellants argue that Hines is in the same situation as the two sons of Augustine Bill. They assert that Kenneth Bill and Augustine had a "cus- tom" (apparently Indian custom) marriage, but were legally married after the death of Augustine's husband. They state that Augustine had two sons who were half-blood brothers to Kenneth's children, and that Augustine's sons were not found to be heirs of Kenneth.

Hines is not in the same situation as Augustine's sons. Augustine's sons were not heirs of the man to whom their mother was married. Hines was found to be the heir of her half-brother, the son of her mother. These situations are entirely different.

Appellants allege that it would be an injustice to give an interest in their land to Hines because she is not an enrolled member of the Umatilla Tribe and would eventually have to sell her interest. Judge Hammett found that it is not necessary to be an enrolled member of the Umatilla Tribe in order to inherit on the Umatilla Reservation. Appellants do not challenge this determination. Furthermore, the possibility that an heir would sell the inherited interest does not disqualify that person from inheriting.

Appellants argue that "Phillip Bill Sr. has always claimed his two sons by Dorcas Minthorn, his wife Eliza Cowapoo Bill by will left Kenneth E. Bill and Phillip L. Bill Jr. Property \* \* \*. They sold the property, so our responsibility to them is over and we shouldn't have to take care of half-blood pester [sic] Clara Hines." Statement of Reasons at unnumbered 2. The fact that Appellants feel no obligation to Hines does not alter the fact that she is Decedent's half-sister, and therefore eligible to inherit from him under the circumstances of this case.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, Judge Hammett's May 27, 1997, denial of rehearing is affirmed.

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Kathryn A. Lynn  
Chief Administrative Judge

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//original signed  
Anita Vogt  
Administrative Judge